

City of Conway

DD 2001- 11626

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ORDINANCE NO. O-2001- 64

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CC/BK  
6/26/01

AN ORDINANCE AMENDING CHAPTER 8.04 OF THE CONWAY MUNICIPAL CODE REGARDING ABANDONED OR INOPERABLE VEHICLES; REPEALING ANY ORDINANCES IN CONFLICT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and City Council desire to amend Section 8.04 of the Conway Municipal Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS, THAT:

SECTION 1. That Section 8.04.01 through Section 8.04.08 shall be repealed, and Chapter 8.04, ABANDONED AND INOPERABLE VEHICLES, shall read as follows:

**8.04.01 Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned motor vehicle* means any motor vehicle which is left on public or private property, as defined in this section, for a period of more than seven (7) days, regardless of whether wrecked or inoperable, and regardless of whether such vehicle bears a current registration and a current vehicle inspection sticker.

*Boat* means any vessel initially designed for the carrying of passengers or cargo upon the water, whether currently seaworthy or not, and regardless of size or design, including, without limitation, barges, motorboats whether inboard or outboard, canoes, rowboats, rafts and sailboats.

*Code enforcement division* means the code enforcement division of the city, its agents, and its designees.

*Inoperable motor vehicle* means a motor vehicle, the condition of which is wrecked, dismantled, partially dismantled, incapable of operation by its own power upon a public street, or from which the wheels, engine, transmission or substantial part thereof has been removed, regardless of whether it has an unexpired motor vehicle license plate or current registration.

*Major portion*, as applicable to boats, motor vehicles and trailers, means any part thereof which is sufficiently large to constitute a public nuisance as a harborage of snakes or rodents, or as otherwise defined by state or city nuisance laws, and shall include, without limitation, the following: Truckbed, cab or cabin, chassis or frame, axle, motor or engine, transmission, hull or pontoon, cargo compartment, seats, and portions of exterior parts or panelling such as walls and roofs.

*Motor vehicle* means a vehicle or conveyance which is self-propelled and designed to travel along the ground, and includes but is not limited to automobiles, buses, mopeds, motorcycles, trucks, tractors, go-carts, golfcarts, campers, motor homes and trailers.

*Private property* means any real property within the city which is privately owned and which is not defined as public property in this section.

*Public property* means any real property in the city which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, right-of-way, easements and other similar property.

*Subject item* is a comprehensive terms which includes boats, motor vehicles, trailers and major portions thereof, as defined in this section, which may become the subject of citation under this article.

*Trailer* means any freewheeling object designed or intended to be pulled or towed behind a motor vehicle, regardless of whether wrecked or inoperable, and regardless of whether currently inspected and/or registered, including without limitation the following: Boat trailers, camper trailers, cargo trailers, special trailers for items such as golf carts or motorcycles, utility trailers, and farm implements.

#### **Section 8.04.02 Abandonment Regulated.**

No person shall abandon or leave any subject item, including an inoperable subject item, whether attended or not, upon any public property within the city for a period of time in excess of seven (7) days. The presence of any subject item, or parts thereof, on public property is hereby declared to be public nuisance which may be subject to criminal prosecution under this section or abated as a nuisance in accordance with the laws of the State of Arkansas. This section does not apply to subject items parked or stored on public property by the city or any of its departments.

**Section 8.04.03 Parking and Storage Regulated.**

No person shall park, store, leave or permit the parking, storing or leaving of any subject item of any kind, which is inoperable, whether attended or not, upon any private property within the city, except that, with respect to an inoperable motor vehicle, such vehicle may be parked, stored or left on such property for a period of time not to exceed seven (7) days, after which time such inoperable motor vehicle shall constitute a nuisance subject to criminal prosecution under this section or abated as a nuisance in accordance with the laws of the State of Arkansas.

**Section 8.04.04 Exceptions.**

(a) The provisions of Sections 8.04.02 and 8.04.03 of this article shall not apply to:

- (1) Any subject item parked or stored within a building or enclosed garage on private property.
- (2) Any subject item held in connection with a business enterprise lawfully licensed by the city for the servicing and repair of subject items and properly operated in an appropriate business zone pursuant to the zoning ordinances of the city.
- (3) Subject vehicle within a carport that is being actively repaired on at least a weekly basis. Subject vehicle and its parts when not being repaired shall be neatly and completely covered with an opaque cover.

(b) Subject vehicle not defined as an inoperable vehicle except for not having a current license may be stored in a covered carport.

**Section 8.04.05 Penalty.**

Any person, firm, corporation, partnership, association of persons, owner, occupant, agent or anyone having supervision or control, who shall violate a provision of this code, or fail to comply therewith, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof, during which any violation of any of the provisions of this code is committed or continued. Upon conviction of any such violation, such person shall be punished by a fine, not to exceed \$500 for the first

offense, and not more than \$250 for each day of offenses of a continuing nature. Prosecution under this section shall not be a waiver of the city's authority to abate any prohibited conduct set forth herein as a public nuisance, including removal and sale of the subject item. If a vehicle or other subject item which has been the basis for prosecution under this ordinance has not been removed or otherwise brought into compliance with this ordinance, said subject item may be removed and impounded following either (1) the forfeiture of bond or non-appearance in court following the issuance of a criminal information or citation, or (2) the expiration of thirty (30) days after a plea of guilty, no contest or conviction for violation of this ordinance. Provided, a properly perfected appeal to circuit court following conviction under this ordinance shall stay any procedures for the removal and storage of the subject item. However, the appeal of a conviction under this ordinance shall not bar the city's authority to seek abatement pursuant to any civil remedies which may be available. The reasonable costs of towing, removal and storage of any vehicle or other subject item shall constitute a lien upon both the subject item and the property from which it was removed.

**Section 8.04.06 Adoption of State Law by Reference.**

As an alternative or supplemental to the procedure set forth in this article regarding abandoned vehicles on public or private property, A.C.A. §§ 27-50-1101, 27-50-1102 and 8-6-413 are hereby incorporated by reference into this article as if fully set forth herein. If the police department or code enforcement division, in their discretion, shall pursue a remedy pursuant to A.C.A. §§ 27-50-1101, 27-50-1102 or 8-6-413, they are directed to comply completely and fully with such provisions.

**SECTION 2.** That any ordinances in conflict herewith are hereby repealed to the extent of that conflict.

**SECTION 3.** That this ordinance is necessary for the protection of the peace, health and safety of the citizens of Conway, and therefore, an emergency is declared to exist, and this ordinance shall go into effect from and after its passage and approval.

PASSED this 26<sup>th</sup> day of June, 2001.

*Tab Townsell*  
MAYOR TAB TOWNSELL

ATTEST:

*Michael O. Garrett*  
MICHAEL O. GARRETT, CITY CLERK